



# RAMA UNIVERSITY

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## **FACULTY OF COMMERCE & MANAGEMENT**

**COURSE: MBA 3<sup>rd</sup> SEMESTER**

**SUBJECT: LABOUR LEGISLATIONS**

**SUBJECT CODE: MBAHR01**

**LECTURE: 28**

**NAME OF FACULTY: DR. H. L. BHASKAR**

# Lecture-28



**Social Security Legislations: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; The Workmen's Compensation Act, 1923; The Employee State Insurance Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961**

## **THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952**

### **3. Power to apply Act to an establishment which has a common provident fund with another establishment.**

- Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in the Official Gazette direct that the provisions of this Act shall also apply to such other establishment.

**4. Power to add to Schedule I.** – (1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a Provident Fund Scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purpose of this Act.

(2) All notifications under sub-section 1 shall be laid before Parliament, as soon as may be, after they are issued.

**5. Employees' Provident Funds Scheme.** – (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said Scheme shall apply and

there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme.

(1A) The Fund shall vest in, and be administered by, the Central Board constituted under section 5A.

(1B) Subject to the provisions of this Act, a Scheme framed under sub-section 1 may provide for all or any of the matters specified in Schedule II.

(2) A Scheme framed under sub-section 1 may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

**5A. Central Board.** - (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends hereinafter in this Act referred to as the Central Board consisting of the following persons as members, namely:-

(a) a Chairman and a Vice-Chairman to be appointed by the Central Government; (aa) the Central Provident Fund Commissioner, Ex officio;

(b) not more than five persons appointed by the Central Government from amongst its officials;

(c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, appointed by the Central Government;

(d) ten persons representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and

(e) ten persons representing employees in the establishments to which the Scheme applies,

appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.

(2) The terms and conditions subject to which a member of the Central Board may be appointed and the time, place and procedure of the meetings of the Central Board shall be such as may be provided for in the Scheme.

(3) The Central Board shall subject to the provisions of section 6 and section 6C administer the Fund vested in it in such manner as may be specified in the Scheme.

(4) The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme, the Pension Scheme and the Insurance scheme.

(5) The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify in the Scheme.

(6) The accounts of the Central Board shall be audited annually by the comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Central Board to the Comptroller and Auditor-General of India.

(7) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Central Board.

(8) The accounts of the Central Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Central Board which shall forward the same to the Central Government

along with its comments on the report of the Comptroller and Auditor-General.

(9) It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the Central Board thereon to be laid before each House of Parliament.

**5AA. Executive Committee.** – (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.

(2) The Executive Committee shall consist of the following persons as members, namely:-

(a) a Chairman appointed by the Central Government from amongst the members of the Central Board:

(b) two persons appointed by the Central Government from amongst the persons referred to in clause b of sub-section 1 of section 5A;

(c) three persons appointed by the Central Government from amongst the persons referred to in clause c of sub-section 1 of section 5A;

(d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause d of sub-section 1 of section 5A;

(e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause e of sub-section 1 of section 5A;

(f) the Central Provident Fund Commissioner, ex-officio.

(3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.

**5B. State Board.-** (1) The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees hereinafter in this Act referred to as the State Board in such manner as may be provided for in

the Scheme.

(2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.

(3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

**5C. Board of Trustees to be body corporate.-** Every Board of Trustees constituted under section 5A or section 5B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

**5D. Appointment of officers. –** (1) The Central Government shall appoint a Central Provident Fund Commissioner who shall be the chief executive officer of the Central Board and shall be subject to the general control and superintendence of that Board.

(2) The Central Government may also appoint a Financial Adviser and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties.

(3) The Central Board may appoint, subject to the maximum scale of pay, as may be specified in the Scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may consider necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.

(4) No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group „A“ or Group „B“ post under the Central Government shall be made except after

consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment –

- (a) for a period not exceeding one year; or
- (b) if the person to be appointed is at the time of his appointment-
  - (i) a member of the Indian Administrative Service, of
  - (ii) in the service of the Central Government or a State Government or the Central Board in a Group „A“ or Group „B“ post.

(5) A state Board may, with the approval of the State Government concerned, appoint such staff as it may consider necessary.

(6) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner, and the Financial Adviser and Chief Accounts Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the fund.

(7) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of officers and employees under clause a, the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of



any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

(8) The method of recruitment, salary and allowances, discipline and other conditions of service of officers and employees of a State Board shall be such as may be specified by that Board, with the approval of the State Government concerned.

**5DD. Acts and proceedings of the Central Board or its Executive Committee or the State Board not to be invalidated on certain grounds.** – No act done or proceeding taken by the Central Board or the Executive Committee constituted under section 5AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Board or the Executive Committee or the State Board, as the case may be.

**5E. Delegation.** - The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers, subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.

**6. Contributions and matters which may be provided for in Schemes.** – The contribution which shall be paid by the employer to the Fund shall be ten percent. Of the basic wages, dearness allowance and retaining allowance, if any, for the time being payable to each of the employees whether employed by him directly or by or through a contractor, and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten percent of his basic wages, dearness allowance and retaining allowance if any, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

Provided that in its application to any establishment or class of establishments which the Central

Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words “ten percent”, at both the places where they occur, the words “12 percent” shall be substituted:

Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for rounding off of such fraction to the nearest rupee, half of a rupee, or quarter of a rupee.

Explanation I – For the purposes of this section dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

Explanation II. – For the purposes of this section, “retaining allowance” means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.

**6A. Employees’ Pension Scheme.** – (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees’ Pension Scheme for the purpose of providing for –

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) Widow or widower’s pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, there shall be established , as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme, -

(a) such sums from the employer’s contribution under section 6, not exceeding eight and one-third per cent of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension as on the date of establishment of the Pension Fund;

(d) such sums as the central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme hereinafter referred to as the ceased scheme shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension fund.

(4) Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that scheme.

(7) A Pension Scheme, framed under sub-section 1 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme

should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme.

**6C. Employees' Deposit-linked Insurance Scheme.** - (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(2) There shall be established, as soon as may be after the framing of Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance if any for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

Explanation. - For the purposes of this sub-section, the expressions "dearness allowance" and „retaining allowance“ have the same meanings as in section 6.

(3) \*\*\*

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section 2, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that Scheme.

(b) \*\*\*

(5) The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of its provision shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.

**6D. Laying of Schemes before Parliament.** - Every scheme framed under section 5, section 6A and section 6C shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be framed, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.